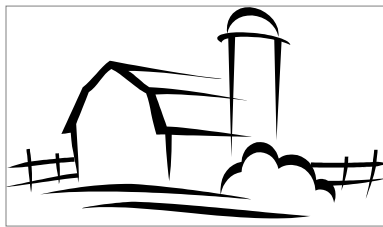

COMMITTEE ON AGRICULTURE

ONE HUNDRED SIXTH LEGISLATURE
First Session

2019



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Steve Halloran, Chair
Senator Tom Brandt, Vice-Chair
Senator Julie Slama
Senator Carol Blood
Senator Ernie Chambers
Senator Steve Lathrop
Senator Ben Hansen
Senator Mike Moser

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STATUS REPORT BY BILL NUMBER

(Bills introduced in 2019 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LR 13	Murman	Urge federal agencies of the U.S. Government responsible for food labeling to establish and enforce standards for nomenclature of plant-based imitation milk and dairy food products	2/19/19	Adopted		AM435	
LB 14	Blood	Provide for truth in advertising and labeling in the sale of meat and provide a penalty		Withdrawn			Bill withdrawn before hearing date was set
LB 45	Chambers	Repeal the Black-Tailed Prairie Dog Management Act	3/5/19	Held			
LB 61	Halloran	Change and eliminate provisions relating to rabies	1/22/19	Enacted	AM41 ER8		
LB 157	Brewer	Provide for voluntary registration, duties for the Department of Agriculture, and a cause of action under the Nebraska Apiary Act	2/26/19	General File		AM1484	
LB 201	McCollister	Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act	2/26/19	Held			
LB 227	Hughes	Change provisions governing determination of a public or private nuisance under the Nebraska Right to Farm Act	2/12/19	Enacted	AM746 AM1287 AM1485 ER80		Agriculture Committee 2019 session priority
LB 229	Groene	Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act	2/26/19	Held			
LB 243	Gragert	Create the Healthy Soils Task Force and add a use for a fund	1/29/19	Enacted	AM640 AM789 AM937 ER57		Gragert 2019 session personal priority
LB 304	Crawford	Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act	3/5/19	Enacted	AM990 ER73		B. Hansen 2019 session personal priority
LB 320	Albrecht	Change various provisions of the Pesticide Act and update federal references	2/5/19	Enacted	ER61		Agriculture Committee 2019 session priority

(Bills introduced in 2019 session, continued)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 321	B. Hansen	Update certain standards and regulations and change Director of Agriculture duties and Department of Agriculture fee and permit provisions under the Weights and Measures Act	1/29/19	Held			
LB 333	Slama	Update federal references and redefine a term under the Nebraska Milk Act	1/29/19	Enacted			
LB 344	Ag Committee	Adopt the Animal Health and Disease Control Act	2/5/19	Held			
LB 382	Geist	Change the Dog and Cat Purchase Protection Act	2/26/19	Held			
LB 594	Blood	Provide for a deceptive trade practice relating to meat under the Uniform Deceptive Trade Practices Act	2/19/19	General File		AM313	
LB 655	Wayne	Change division fence provisions	3/12/19	Held			
LB 657	Wayne	Adopt the Nebraska Hemp Farming Act and change provisions relating to the industrial hemp agricultural pilot program	2/12/19	Enacted	AM988 AM1541 AM1941 ER87		Brandt 2019 session personal priority
LB 660	Brewer	Change provisions relating to the executive director and chief investigator of the Nebraska Brand Committee	2/5/19	Enacted	ER38		
LB 729	Walz	Adopt the Soil Health and Productivity Incentive Act	2/19/19	Held			
LB 732	Vargas	Adopt the Mobile Food Unit Act and change fees for a mobile food unit	3/5/19	Held			

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 61 (Halloran) Change and eliminate provisions relating to rabies

Date of Public Hearing: 1/22/19

Date Reported from Committee: 1/28/19

Committee Amendment: AM41

Other Adopted Amendments: ER8

Effective Date: September 1, 2019

LB 61 is introduced to resolve conflicts between current statutes regarding the prevention and control of rabies with current science detailed in the Compendium of Animal Rabies and Control published by the National Association of State Public Health Veterinarian in the Journal of the American Veterinary Medical Association. The bill would adopt a current reference to the Compendium in various provisions of sections 71-4401 to 71-4412. LB 61 also removes statutory prescription that conflicts with current rabies exposure response and management practices as recommended in the Compendium, and authorizes the Department of Health and Human Services (DHHS) to adopt by rule and regulation consistent vaccination and rabies incident protocols and standards. The enacted version of LB 61, as amended by the committee amendment (AM41) adopted during general file debate, makes the following section-by-section specific substantive revisions:

Sec 1: Amends §71-4401 to follow statutory convention to place defined terms in alphabetical order. The definition of “domestic animal” is revised to include the species identification of dogs and cats and to add ferrets. The term “vaccination against rabies” is revised to refer to USDA licensed vaccine administered in accordance with labeling rather than as approved by DHHS.

Sec 2: Amends §71-4402.03 to more accurately identify a federal agency that is a source of recommendations consulted by the DHHS in promulgating rabies regulations. This section was further revised by the adopted committee amendment to insert statutory guidance regarding the purposes for which DHHS may promulgate rules and regulations.

Sec 3: Amends §71-4403 to make a clarification pertaining to information to be entered by veterinarians on certificates of vaccination that more clearly state the effective period of the vaccination used and the date the next vaccination is due.

Sec 4: Amends §71-4406 which currently prescribes protocols for the impoundment and observation of “any animal” that has bitten a person. LB 61 provides that the section applies only to the defined term “domestic animals”, strikes statutory prescription relating to post-bite protocols, and provides that post-incident management of the biting domestic animal shall be according to rules and regulations adopted by DHHS.

Sec 5: Amends §71-4407 which currently prescribes protocols for domestic and hybrid animals that are bitten by a rabid animal. LB 61 strikes statutory prescription and provides that post-exposure management of the animal shall be according to rule and regulation of the DHHS. Such protocol would apply to animals exposed to a confirmed or suspected rabid animal.

Sec 6: Repealers

Sec 7: Outright repeals §77-4402.01 which directs the Department of Health to adopt regulations identifying rabid animal species, species amenable to rabies immunizations, and tests for detecting rabies.

Original section 2 of the bill would have amended §71-4402 which requires domestic animals to be vaccinated against rabies according to initial and booster schedules prescribed by rule and regulation of DHHS. LB 61 would have prescribed initial vaccination at three months of age and one year, and booster vaccination consistent with vaccine labeling. The adopted committee amendment struck this section of the bill, leaving existing statute §71-4402 unchanged.

LB 243 (Gragert) Create the Healthy Soils Task Force

Date of Public Hearing: 1/29/19

Date Reported from Committee: 3/15/19

Committee Amendment: AM640

Other Adopted Amendments: AM789, AM937, ER57

Effective Date: April 18, 2019

LB 243 provides for the creation of a task force facilitated by the Department of Agriculture to develop an initiative to promote adoption of stewardship practices on Nebraska farms and ranches that preserve and improve soil quality. A section-by-section description of the enacted version of LB 243, as amended by the committee amendment (AM640) and other floor amendments adopted during floor debate, follows:

Sec 1: States legislative findings and intent recognizing the importance of productive soils to agricultural productivity and for optimizing environmental services provided by agricultural lands, and the value of planning activities to promote greater adoption of soil stewardship practices.

Sec 2: Creates the Healthy Soils Task Force and specifies its membership. As introduced, the bill named as members the Director of Ag (or designee), 2 representatives of NRDs, 2 academic experts in agriculture and natural resources, 5 agricultural producers, 2 representatives of agribusiness, and 1 representative of environmental organizations. The chairs of the Agriculture and Natural Resources committees of the Legislature (or designees) are appointed as non-voting members. The task force is assigned to the Dept. of Agriculture for administrative support purposes, and is authorized to request advisory support from state and federal agencies relevant to its mission. As amended by the committee amendment, the membership was revised to include one additional agricultural producer representative, an additional environmental group representative, and further specified that the governor seek to appoint persons with expertise in soil stewardship and optimizing environmental services.

As amended, the enacted version of the bill incorporated organizational details including: 1) that appointments be completed within 60 days of the effective date, 2) expressly provides that task force members be reimbursed for actual and necessary expenses, 3) directs that the task force shall hold its first meeting by September 1, 2019, 4) that at its initial meeting the task force shall select a chairperson, and 5) that the task force shall meet as necessary at the call of the chairperson. The amended version more specifically provides that the task force may accept support from relevant state and federal agencies to facilitate as well as to advise its work.

Sec 3: As introduced, LB 243 assigned duties to the Healthy Soils Task Force including development of a healthy soils initiative and an action plan to implement the initiative, identify soil quality benchmarks,

establish goals and a timeline for completing elements of the plan, and to identify resources needed. In developing the action plan, the task force may draw upon the NRCS of USDA, the Soil Health Institute and Soil Health Partnership, and shall examine: 1) issues in disseminating research and technical assistance, 2) options for financial incentives, and 3) the contribution of livestock to healthy soils. The Task Force is to develop a timeline to improve soil health within 5 years.

The adopted committee amendment inserted two additional tasks to identify realistic goals and timelines through voluntary partnerships among growers and relevant state, local and private entities, and to review the provisions of the 2018 Farm Bill and identify funding opportunities for purposes of soil health. As amended, the task force is authorized to consult with a number of listed organizations.

Sec 4: Directs the task force to provide a report of its findings and recommendations to the governor and the Natural Resources Committee on or before January 1, 2021 and terminates the task force on January 1, 2021. Amendments adopted during the bill's progress provide for the report to be submitted electronically and submitted to the Agriculture Committee.

Sec 5: This section, inserted by the adopted committee amendment, amends §81-2,162.27 to authorize use of the Fertilizers and Soil Conditioners Administrative Fund to defray the costs of the task force, up to a limit of \$10,000.

Sec 6: Repealer

Sec 7: Inserts the emergency clause to enable the appointment and initial meeting of the task force to occur by timelines specified in the enacted version of the bill.

LB 227 (Hughes) Change provisions governing determination of a nuisance under the Right-to-Farm Act

Date of Public Hearing: 2/12/19

Date Reported from Committee: 3/21/19

Committee Amendment: AM746

Other Adopted Amendments: AM1287, AM1485, ER80

Effective Date: September 1, 2019

The Nebraska Right-to-Farm Act (§§2-4401 – 2-4404) codifies common law principles in nuisance actions that shield farming and grain warehouse operations from being found to be a nuisance if the farming operation preexisted changes in surrounding land use. In its application over time, courts have limited right-to-farm protections if a significant change in the operation has occurred subsequent to the change in surrounding land use. LB 227 as proposed and in its enacted version, expands conditions under which a farm or public grain warehouse is shielded from liability as a public or private nuisance.

As introduced, section 2 of LB 227 proposed a substantive change to §2-4403. The bill retained the existing right-to-farm nuisance shield established by the farm or grain warehouse operation preceding surrounding land use changes as subsection (1), but inserted new subsections (2) and (3) describing additional conditions under which the nuisance liability shield applied:

- If the farm or grain warehouse has not undergone a significant change in the type of operation. For purposes of this provision, LB 227 as introduced defined “significant change” to exclude

certain events including conversion to a different type of operation, a change in ownership or size, change in farm program participation, or incorporation of new technology; and

- If reasonable measures are employed to minimize dust, odors, etc. and the farm or grain warehouse complies with applicable regulations including zoning regulations.

The proposed committee amendment (AM746) struck the original provisions and became the bill. The committee amendment rewrote revisions to §2-4403 to clarify conjunctive/injunctive intent. The existing shield from nuisance liability if a farm or grain warehouse operation existed prior to changes in surrounding landuse was retained unchanged as subsection (1). The amendment further combined original subsections (2) & (3) of the original bill as subdivisions (a) and (b) of a new subsection (2) describing conditions separate and independent from subsection (1) under which an operation could retain right-to-farm protections for changes to the operation.

AM746 was adopted on general file as substantially revised by AM1287. In its amended form, AM746 revised §2-4403 to require that in addition to an operation preceding changes in surrounding landuse, right-to-farm protections applied if the operation employs measures to mitigate nuisance impacts on surrounding properties and the operation is in compliance with any applicable zoning or other regulation. Further, a new section would have been inserted into the Right-to-Farm Act creating a statute of repose excluding an operation from being a nuisance if established two or more years prior to a nuisance action being brought against it. If there was a substantial change in the operation, the date of establishment for purposes of the 2-year repose period would be the date the change in operation occurred.

AM1485 adopted during select file debate struck all previously adopted amendments and became the bill in its final form. As amended by AM1485, the enacted version of LB 227 amends §2-4403 by inserting new subsections (2) and (3). New subsection (2) inserts a statute of limitations for bringing a nuisance action against a farm or grain warehouse operation by barring actions brought 2 or more years after the nuisance condition complained of was sufficient to sustain a nuisance claim. New subsection (3) excludes application of the statute of limitation established in subsection (2) if the action is brought to enforce compliance with a previous court order relating to a nuisance claim.

LB 304 (Crawford) Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act

Date of Public Hearing: 3/5/19

Date Reported from Committee: 3/27/19

Committee Amendment: AM990

Other Adopted Amendments: ER73

Effective Date: September 1, 2019

LB 304 amends §81-2,245.01 of the Nebraska Pure Food Act by expanding commercial venues a small food business operating out of a private home, often referred to as a cottage food business, could engage in without being defined as a “food establishment” for purposes of the act. This section currently excludes private homes where non-hazardous food is prepared for sale directly to the consumer at a farmers market provided the consumer is informed at the sale location that the food was prepared in an unlicensed kitchen. LB 304 would expand this exclusion to businesses preparing non-hazardous foods in private homes sold at additional public events, and when picked up or delivered from a private home, provided:

- for farmers market or similar event sales, notification that the food is not prepared in a regulated facility is given at the sales location. For sales for pick up or delivery, such notification is provided at the home and on the producer’s website or in any advertising, and the consumer is notified of potential allergens;
- the product label includes the name and address of the producer;
- product delivery is through a direct to the consumer transaction or by mail or commercial delivery service; and
- the producer follows any applicable food safety handling guidelines required by the county for food vendors at public event venues.

The committee amendment (AM990) adopted on general file clarifies that the producer follow any applicable public event food vendor safety handling guidelines of any county, city or village. The amendment also adds three additional requirements to qualify for the cottage food exemption:

- The producer (for sales other than at a farmers market) has completed an accredited food safety education course or has acquired such training as part of a degree program or as required for a food handler permit;
- If using a private water well, the producer has had the water tested for nitrates and bacteria; and
- The producer complies with section 3 of the bill as enacted. Section 3 inserts a new section into the Pure Food Act to require persons selling under the expanded cottage food exemption to register with the Department of Agriculture. Information to be provided for a registration is prescribed to include the name and contact information, information regarding food safety and training, and water well testing proof if applicable.

LB 320 (Albrecht) Change various provisions of the Pesticide Act and update references

Date of Public Hearing: 2/5/19

Date Reported from Committee: 3/7/19

Committee Amendment: none

Other Adopted Amendments: ER61

Effective Date: September 1, 2019

LB 320 is introduced to bring provisions of the Pesticide Act (§§2-2622 to 2-2659) into alignment with recent revisions to the Certification of Pesticide Applicators Rule at 40 CFR 171 which establishes standards for state programs to certify persons applying restricted use pesticides (RUPs), training/competency to be demonstrated by applicators to obtain certification and licensure, and related recordkeeping. The revisions increase federal applicator certification program standards, enhance pesticide safety training and standards for supervision of noncertified applicators, and establish a minimum age requirement for noncertified applicators using RUPs under the direct supervision of a certified applicator. States have until March, 2020 to submit to EPA revised certification plans that comply with the updated rule requirements. The bill also contains other statutory housekeeping and clarifications.

Section-by-Section Description:

Sec 1: Amends §2-2624 making revisions to defined terms utilized throughout the Act.

Sec 2: Amends §2-2626 which assigns duties and authorities to the Department to carry out the

Pesticide Act. The revisions include 1) a clarification of the Department's authority to regulate use and possession of state limited use pesticides, 2) changes from prescriptive to permissive the Department's authority to adopt certain rules and regulations, 3) updates reference to federal rules regarding certification categories, 4) expands authority to issue stop-use orders to unlawful uses of a pesticide, and 5) removes express authority to declare pests.

Sec 3: Amends §2-2628 which requires pesticides distributed in the state and upon certain movements in commerce to be registered by the manufacturer or other distributor. The bill clarifies a listed exception to the registration requirement for products merely transported through the state and adds an additional authority of the Department to not require registration of products exempted from EPA registration.

Sec 4: Amends §2-2629 which sets forth information to be supplied on an application for registration of a pesticide. The revisions include that the applicant 1) supply the trade name of the pesticide, and 2) identify locations of online sources of pesticide information. The bill includes that a non-resident application either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 5: Amends §2-2630 prescribing information to be included on a pesticide label. The revision would require inclusion of federal registration identification and remove a requirement for arsenic content.

Sec 6: Amends §2-2632 to clarify grounds under which the Department may deny a pesticide product registration.

Sec 7: Amends §2-3635 which requires persons distributing pesticides to be licensed as a dealer and sets forth information to be supplied by applicants for a dealer license. The bill includes that a non-resident application either name a designated resident agent for service of process or consent to jurisdiction of the state. Removes an application fee for a duplicate dealer's license.

Sec 8: Amends §2-2636 which prescribes requirements to apply restricted use pesticides. The bill requires that applicators be at least 18 years old (the referenced exception is for persons at least 16 years old applying RUPs under the supervision of a family member licensed as a private applicator for ag applications) and are a licensed applicator or working under the direct supervision of a certified applicator. Harmonizes requirements for application of general use pesticides for hire for lawn care, structural pest and outdoor vector control, and also harmonizes an internal reference.

Sec 9: Amends §2-2637 authorizing the Department to establish categories for certification of applicator licensees. Revisions enable consistency with revisions in federal regulations regarding certification categories and competency, and presentation of identification to attend training and certification sessions.

Sec 10: Amends §2-2638 which requires persons using RUPs for hire to be licensed as a commercial applicator and be certified in the necessary categories of pesticide application, and specifies requirements for applying for a commercial license. Revisions appear to enable consistency with revisions in federal regulations regarding certification categories, and harmonize an internal reference to an existing exception allowing application of general use lawn care and structural pest control products by non-certified persons under the supervision of licensed applicators. The revision also includes that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 11: Amends §2-2639 which sets forth requirements for licensure as a non-commercial applicator. The revisions add grounds for denial of a license and that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 12: Amends §2-2640 to remove reference to subcategories of uses of restricted use pesticides to enable consistency with revisions in federal regulations regarding certification categories.

Sec 13: Amends §2-4641 which authorizes licensure as a private applicator in lieu of commercial or noncommercial licensure for agricultural producers applying pesticides on their own farming operation or non-commercially in exchange of services with other producers. The revisions strike provisions inconsistent with the revisions to the definition of “private applicator” in section 2. Inserts new federal requirement for identification to be presented for participants in certification training or exams.

Sec 14: Amends §2-4642 which governs application by non-certified persons applying pesticides for a period prior to obtaining certification while under the supervision of a certified applicator. The revisions appear to enable consistency with updated federal requirements pertaining to training and limitations on pesticide applications by non-certified applications.

Sec 15: Amends §2-2643 to enable consistency with updated federal regulations pertaining to recordkeeping of RUP applications.

Sec 16: Amends §2-2643.02 which assigns a duty of license holders to comply with the Act, rules and regulations, and orders of the Director. The revision extends the duty to complying with requirements of license holder supervising application by non-certified person as referenced.

Sec 17: Amends §2-2645 which assigns responsibilities to the Department to investigate complaints. The revisions clarify grounds by which the Department may decline to investigate.

Sec 18: Amends §2-2646 which lists unlawful acts. The revision adds advertising or recommending a pesticide in contradiction with the act or regulations as a prohibited act.

Sec 19: Amends §2-2653 to update nomenclature of the state pesticide plan.

Sec 20: Amends §2-2656 which provides for the requirement to obtain licensure as an aerial pesticide business, and specifies information to be supplied by an applicant for licensure. The revision provides that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

LB 333 (Slama) Update federal references and redefine a term under the Nebraska Milk Act

Date of Public Hearing: 1/29/19

Date Reported from Committee: 2/7/19

Committee Amendment: none

Other Adopted Amendments: none

Effective Date: September 1, 2019

LB 333 is a statutory maintenance of the Nebraska Milk Act (§§2-3965 – 2-3992) to incorporate into the Act the most recent revisions of reference publications and authorities that provide recognized regulatory standards for sanitation, inspection, labeling and handling of milk and dairy products. The Act currently incorporates the 2011 versions of codes developed by the national Conference on Interstate Milk Shipments. These include the Grade A Pasteurized Milk Ordinance, Methods of Making Sanitary Ratings of Milk Shippers, Procedures Governing Cooperative State-Public Health Service, and Evaluation of Milk Laboratories. LB 333 would incorporate the 2017 editions of these publications. The bill also incorporates the definition of “3-A Sanitary Standards” from the Pasteurized Milk Ordinance and updates reference to the 2018 version of 7 CFR 58.134 for methods of determining sediment content of milk.

LB 657 (Wayne) Adopt the Hemp Farming Act

Date of Public Hearing: 2/12/19

Date Reported from Committee: 4/2/19

Committee Amendment: AM988

Other Adopted Amendments: AM988, AM1541, AM1941, ER87

Effective Date: June 1, 2019

LB 657 provides for the growing and processing/handling of industrial hemp under regulation of the Nebraska Department of Agriculture (Department), and provides the authorities necessary for the Department to prepare and implement a state plan for purposes of the hemp provisions of the federal Agriculture Improvement Act of 2018 (2018 Farm Bill). The bill defines hemp as cannabis sativa L and any part of the plant and derivatives having a delta-9 tetrahydrocannabinol (THC) of not more than 0.3% by dry weight, and excludes hemp from the definition of marijuana for purposes of the Uniform Controlled Substances Act. Additionally, LB 657 creates a commission to advise the governor and legislature regarding policies to remove constraints to hemp production and to coordinate programs to promote the hemp industry.

LB 657 underwent considerable change from its introduced version as the bill progressed through the legislative process. The committee amendment (AM988) adopted on general file struck the original provisions and became the bill. The amendment retained key elements of the original bill, but addressed certain elements in a modified manner, with overall reorganization of the bill for clarity and readability. The most significant changes from LB 657 as introduced include:

- Temporarily expands participation in the hemp research pilot program authorized under §2-5701 to enable wider participation for the 2019 growing season. It is anticipated that the hemp program authorized by the bill would provide the structure to prepare and implement a state plan to conform to 2018 Farm Bill hemp provisions for the 2020 growing season and beyond;
- Delegates more discretion to the Department regarding the contents of the state plan submitted for purposes meeting the requirements of the 2018 Farm Bill;
- Reorganizes the Hemp Commission as a checkoff program, creating a separate fund and revenue stream to support promotional aspects of the bill; and
- Inserts additional provisions to be consistent with the hemp provisions of the 2018 Farm Bill including the enforcement of negligent violations and prohibiting persons having prior felony drug convictions from obtaining licensure.

AM1541 adopted on select file inserted harmonizing changes to §2-401 of the Controlled Substances Act to remove hemp as defined by the Hemp Farming Act from the definition of marijuana, and further

removed resins derived from hemp when possessed as authorized by the Hemp Farming Act from the definition of hashish. Additional revisions to definitions and provisions of the Hemp Farming Act were made to reflect hemp was no longer regulated as a controlled substance under the Controlled Substances Act. AM1541 also removed the Directors of Agriculture and Economic Development as members of the hemp promotional program and established the Hemp Commission as an independent agency. Finally, the amendment removed certain administrative enforcement provisions for intentional violations of the Hemp Farming Act and specified post-decarboxylation or other reliable methodology for determining THC concentration.

Subsequent to the first advancement from select file to final reading, the Legislature returned LB 657 to select file and further amended the bill with adoption of AM1941. The substantive revisions include the following:

- Inserted two new sections temporarily authorizing use of the Noxious Weed Control Fund and the Fertilizers and Soil Conditioners Administrative Fund to defray the Department's costs to implement the Act until January 1, 2020. Any expenditures from these funds for such purpose are to be documented and the funds reimbursed from the Hemp Program Fund no later than October 1, 2022;
- Inserted as a purpose of the Act the facilitation and avoidance of impeding interstate commerce in hemp. Related changes authorize the Department of Agriculture in consultation with the State Patrol to develop documentation to be carried by persons transporting hemp in Nebraska originating outside the state and prohibits possession and transport of hemp except as authorized by the Hemp Farming Act, and provides that a violation is a Class IV misdemeanor.

LB 660 (Brewer) Change provision relating to the executive director and chief investigator of the Nebraska Brand Committee

Date of Public Hearing: 2/5/19

Date Reported from Committee: 2/13/19

Committee Amendment:

Other Adopted Amendments: ER38

Effective Date: March 22, 2019

LB 660 amends §54-192 of the Nebraska Brand Act by removing statutory prescription in subsection (2) that the executive director assumes the titles of chief investigator and chief inspector, and eliminates that the executive director have or obtain law enforcement credentials necessary to assume assignment of an investigator position.

LB 660 further inserts a new subsection (3) which directs the Brand Committee to create and employ the position of chief investigator and describes the duties and qualifications for the position.

RESOLUTIONS ADOPTED

LR13 (Murman) Urge federal agencies of the U.S. Government responsible for labeling to establish and enforce standards for nomenclature of plant-based imitation milk and dairy food products.

Date of Public Hearing: 2/19/19

Date Reported from Committee: 3/7/19

Committee Amendment: AM435

LR 13 is a resolution stating various findings and observations regarding market distortions and inference of false equivalency to real dairy in nutritional and other characteristics of plant-based products that mimic milk and other real dairy food products in appearance as well as in packaging and marketing strategies, and by incorporation of standardized dairy food terms into plant-based product names and descriptions. The resolved clause urges federal agencies with responsibility for food labeling to establish and enforce rules for plant-based product nomenclature and description that clearly distinguish plant-based milk analogue products from real dairy milk and dairy food products conforming to referenced federal standards of identity for such products.

The adopted committee amendment (AM435) rewrote the whereas clauses of the resolution to utilize consistent terminology throughout and to resolve a typo in the third whereas clause. Resolved clause 1.c. is revised to address awkward sentence structure and for clarification of the purpose of the clause.

BILLS ADVANCED BUT NOT ENACTED

LB 157 (Brewer) Provide for voluntary registration, duties for the Department of Agriculture, and a cause of action under the Nebraska Apiary Act

Date of Public Hearing: 2/26/19

Date Reported from Committee: 4/26/19

Committee Amendment: AM1484

Other Pending Amendments:

LB 157 would amend the Nebraska Apiary Act to provide for the voluntary registration of apiary locations with the Department of Agriculture. The Department is authorized to charge a reasonable fee to offset administrative costs for establishing such registry. The bill would further prohibit commercial beekeepers from locating hives within three miles of a registered apiary. A person who has registered an apiary would have a cause of action to seek damages and equitable relief against persons locating apiaries within three miles of a registered apiary. Such violation would also be subject to administrative remedies under §81-2,179 of the Nebraska Apiary Act.

The pending committee amendment (AM1484) would revise the bill to provide just the establishment of a voluntary registry maintained by the Department, omitting provisions of the original bill making it a violation of the Act to place apiaries within a distance of a registered apiary and associated enforcement provisions. Under the amendment, registration would be limited only to commercial beekeepers as defined and inserts a series of limitations on apiary registration. These limitations include: 1) no commercial beekeeper may register more than five locations, 2) if the registered location is on property not owned by the beekeeper, the applicant for registration must provide a written statement of agreement of the landowner, 3) an apiary location may not be registered that is within two miles of a previously registered location, and 4) the site must be utilized as an apiary by the person requesting registration.

Registrations would be first accepted on the effective date of the bill. The registration period would expire on March 31 of the year subsequent to initial registration and could be renewed annually with each annual renewal period beginning April 1 and expiring March 31 of the following year. The Department is authorized to establish initial and renewal registration fees to cover the costs of establishing and maintaining the registry and specifies any such fees are deposited in the Apiary Cash Fund.

LB 594 (Blood) Provide for a deceptive trade practice relating to meat under the Uniform Deceptive Trade Practices Act

Date of Public Hearing: 2/19/19

Date Reported from Committee: 3/7/19

Committee Amendment: AM313

Other Pending Amendments:

LB 594 amends the Uniform Deceptive Trade Practices Act (§87-301 to §87-306) to declare a deceptive trade practice to misrepresent a food product as “meat” that is derived from sources other than livestock and poultry animals. Section 1 of LB 594 amends §87-301 by inserting a new subsection

(19) adding “meat” as a defined term for purposes of the Uniform Deceptive Trade Practices Act. Section 2 amends §87-302 which lists specific acts that are a deceptive trade practice. LB 594 inserts a new subdivision (a)(23) declaring it a deceptive practice to advertise, label or otherwise misrepresent insect or plant based, or lab-grown, food products as meat.

The pending committee amendment (AM313), strikes section 1. The amendment further strikes original subdivision (a)(23) inserted by section 2 of the bill and substitutes a new subdivision (23) which adds violations of the Nebraska Pure Food Act relating to labeling, packing or packaging, or advertising of food to the list of deceptive trade practices in §87-302.

BILLS HELD BY THE COMMITTEE

LB 45 (Chambers) Repeal the Black-Tailed Prairie Dog Management Act

Date of Public Hearing: 3/5/19

LB 45 would outright repeal §23-3801 through §23-3810 which collectively are cited as the Black-tailed Prairie Dog Management Act. The Act imposes an affirmative duty upon landowners and managers within a county that has adopted a black-tailed prairie dog management plan to prevent uncontrolled spread of colonies of black-tailed prairie dogs to neighboring properties. The Act sets forth minimal elements of county management plans, procedures and standards by which counties may assume and implement authorities under the Act to compel landowner responsibility.

LB 201 (McCollister) Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act

Date of Public Hearing: 2/26/19

LB 201 would amend §89-197 of the Nebraska Weights and Measures Act which lists unlawful acts in violation of the Act. The bill would insert two new subsections (19) & (20) relating to motor vehicle retail locations to declare the following as additional unlawful acts:

- To sell an advertised blend of spark ignition engine fuel containing 10% or less ethanol blend at a price other than as advertised on manual, electronic, digital or other medium. The new subsection additionally declares a duty for a location that utilizes multi-product fuel dispensers with six or more fueling positions to make such advertised fuel blends available at all fueling positions. The sale of ethanol fuel blends of greater than 10% is expressly excluded from the prohibitions and duties set forth in new subsection (19) and expressly provides that certain discounts to the base price are not prohibited; and
- To vary the base price of a grade of fuel dispensed at more than one fuel dispenser if the dispensers are supplied by a single storage tank or by multiple storage tanks joined in a manner that comingles the fuel from the tanks. This prohibition also does not preclude certain types of discounts to the base price.

LB 229 (Groehne) Prohibit certain unlawful acts as prescribed under the Weights and Measures Act.

Date of Public Hearing: 2/26/19

LB 229 amends §89-197 of the Nebraska Weights and Measures Act which lists unlawful acts in violation of the Act. The bill would insert a new subsection (19) relating to motor vehicle fuel retailing to add the following as an unlawful act:

- To advertise an automotive fuel that is not available at all fueling locations unless the price and fueling position where the advertised fuel is available is shown in equal font and wattage and each fueling position shall be clearly marked and identified to match identified information.

LB 321 (B. Hansen) Update certain standards and regulations, change duties and fee and permit provisions under the Weights and Measures Act

Date of Public Hearing: 1/29/19

LB 321 is introduced at the request of the Department of Agriculture to update references to standards published by the National Conference on Weights and Measures incorporated into the Nebraska Weights & Measures Act to the most current editions. The bill further removes statutory prescription of inspection duties of the Department of Agriculture for weighing and measuring devices and strikes obsolete provisions. Specifically, LB 321 as introduced would effect the following revisions to the Act:

- Updates references to current titles and year of publication editions of Handbooks published by the National Institute of Standards and Technology containing standards of the National Conference of Weights and Measures utilized in the Weights and Measure Act. The Act currently references the 2003 edition of the Handbooks. LB 321 references the 2019 editions;
- Amends §89-187 by adopting permissive authorization to exercise duties and authorities of the Director of Agriculture under this section. Subsection (9) of this section is revised to no longer expressly require at least annual inspection of devices used in commerce or by the State Patrol, but authorizes the director to inspect as deemed necessary;
- Strikes obsolete date references in a provision pertaining to an initial device inspection fee and in a provision prohibiting operation of a weighing and measure device without a permit; and
- Strikes an unnecessary requirement for a signature on a permit application.

LB 344 (Ag Committee) Adopt the Animal Health and Disease Control Act,

Date of Public Hearing: 1/29/19

LB 344 is brought by the Department of Agriculture to update and consolidate animal disease authorities of the Department under a single, comprehensive Animal Health and Disease Control Act. The bill outright repeals several disease and species specific acts, the Animal Import Act and various duties and provisions of Chapter 54, Article 7 that are referred to as the Department's "general powers." These general powers grant the Department the authority to impose quarantine and other animal movement restrictions, perform disease surveillance activities, regulate carcass disposal, and other authorities to contain and prevent instances of livestock disease, and impose duties of the veterinary and livestock communities for the reporting of, and response to, animal diseases. LB 344 is lengthy and complex. A detailed section-by-section summary is not included here but is available upon request to Committee staff. The primary substantive revisions to current animal health authorities are summarized as follows:

- Updates animal disease control activities consistent with current veterinary practices in the field and expressly requires the Department, as far as practical, to conform its animal disease control and eradication activities to federal rules, regulations and guidelines;

- Defines, redefines, and strikes outdated terms, consistent with USDA/APHIS/VS animal disease control and eradication and current veterinary practices;
- Expressly provides that animal identification requirements for interstate movement be consistent with the requirements of USDA/APHIS/VS.
- Allows the Department to obtain a search warrant when it is denied access to infected or suspected to be infected animals, or premises, buildings, equipment, or vehicles affected by such affected animals, for purposes set forth in the bill. This does not add or subtract from existing authority for the Department to have access to premises of affected or suspected to be affected animals or premises;
- Provides for administrative hearings and the assessment of administrative fines for violators, including nonresident violators;
- Provides authority relating to trichomoniasis, for the Department to issue an order requiring a trichomoniasis positive bull to go directly to slaughter if the owner refuses to comply. Current law, §54-742(3), prohibits an infected bull from being sold or transported except to go directly to a federally recognized slaughter establishment. The original provisions do not provide recourse for the Department if an owner refuses to comply;
- LB 344 expressly exempts the Department from paying costs associated with animal disease eradication and control program activities. Such activities include: testing for change of ownership at private treaty; costs of gathering, confining, and restraining animals subjected to testing; costs of providing necessary facilities and assistance; costs of testing to qualify or maintain herd accreditation, certification or validation; or indemnity for an animal destroyed as a result of being affected with a program or other dangerous disease. This language is consistent with current Department statutory provisions repealed by the bill;
- Expressly exempts the Department from liability for actual or incidental costs incurred by any person due to Departmental actions in enforcing the Act. This provision is consistent with other agency statutes;
- Carries over authorities from the proposed repealed provisions allowing the Department to assess and collect payment for services provided, and expenses incurred, pursuant to its responsibilities under this proposal;
- Provides the Department with more flexibility for sustained mitigation of animal disease impacts, especially in regard to restricted animal movement control and quarantine. There are certain animal diseases for which eradication may not be practical or economically feasible. For example, long-term quarantines could seriously impede trade or interstate commerce, and having flexibility for options other than outright quarantines allows for continuity of business. USDA/APHIS/VS has moved toward a process of allowing the establishment of compartments or zones for such purpose;
- Removes references to the Bureau of Animal Industry which no longer exists due to Departmental restructure several years ago. The Bureau of Animal Industry is now part of the Animal and Plant Health Protection focus area. This proposal replaces a specific division name with the broader term, “Department”; and
- LB 344 additionally harmonizes sections affected by this proposal.

LB 382 (Geist) Change the Dog and Cater Purchase Protection Act

Date of Public Hearing: 2/26/19

LB 382 amends the Dog and Cat Purchase Protection Act (§54-644 to §54-650) with the following substantive changes:

- Expands disclosures required of sellers of pet animals under §54-646 to include the animal control, shelter or rescue sources of animals if applicable. The bill further provides that information to be provided by sellers be available to customers for review rather than the current minimal statutory requirement that such information is delivered to a purchaser at the time of the sale;
- Inserts “pet shop” as a defined term and requires pet shops to maintain records documenting where animals offered for sale were acquired from;
- Prohibits pet shops from knowingly selling inbred or linebred dogs; and
- Inserts a new section of the Act declaring a preemption of location regulation of activity governed by the Act.

LB 655 (Wayne) Change division fence provisions

Date of Public Hearing: 3/12/19

LB 655 would apply obligations under the fence law only to situations where there is mutual agreement between adjacent landowners to share responsibility for building and maintaining a division fence, makes changes in various provisions of the fencelaw accordingly, and proposes changes in the processes of pursuing fence and boundary dispute claims. Specific revisions are described further in the section-by-section summary.

Sec 1: Amends §34-101 to define a “division fence” for purposes of the fence law to mean a fence located on a property line and to expressly exclude a fence located entirely on one property.

Sec 2: Amends §34-102 to modify current statutory assignment of a mutual duty of adjacent landowners for the building and maintenance of division fences by: 1) providing that the duty is one of equal contribution unless otherwise provided by law or by agreement of the parties and 2) that a landowner not desiring a fence is not subject to the mutual obligation for fencing assigned by this section.

Sec 3: Amends §34-103 which assigns a duty to persons with an obligation for division fencing to maintain their portion in good repair, including the management of conflicting vegetation. LB 655 revises this section so that a landowner may be subject to a nuisance action for allowing conflicting vegetation even if not obligated to construct or maintain the fence.

Sec 4: Amends §34-112 with revisions for clarity.

Sec 5: Amends §34-112.01 which provides a limited right of entry upon adjacent property for purposes of fence construction, maintenance or repair. LB 655 inserts an express liability for damages to the property of the adjacent landowner.

Sec 6: Amends §34-112.02 which sets forth procedure for compelling fulfillment of an adjacent landowner’s obligation for fence construction, repair or maintenance. LB 655 makes revisions to this section to modify requirements for service of a written notice requesting contribution to fence construction, maintenance or repair, inserts additional information to be included of such written notice, and requires a landowner serving notice to allow 30 days to respond to a notice before commencing fence work or initiating a fence dispute claim.

Sec 7: Amends §34-301 which provides for an action for establishing lost or disputed property boundaries. LB 655 inserts clarification regarding service of notice of such action and expressly provides that the existence of a division fence does not determine the true boundary or boundary established by adverse possession.

Sec 8: Repealers

LB 729 (Walz) Adopt the Soil Health and Productivity Incentive Act

Date of Public Hearing: 2/19/19

LB 729 inserts wholly new sections designated the Soil Health and Productive Incentive Act which would assign duties and authorities to the Department of Agriculture to award incentive payments to encourage the planting of cover crops in proximity to certain designated stream segments. The details of the program authorized under the act are described in the following section-by-section description.

Sec 1: Names Sections 1 – 6 the Soil Health and Productivity Incentive Act

Sec 2: Declaration of legislative intent -- identifies public welfare purposes advanced by the Act

Sec 3: Defines terms utilized throughout the Act. The terms “zone 1”, “zone 2”, and “zone 3” are defined as land within 2 ½ miles of certain designated stream segments, and “zone 4” as any land not included in zones 1, 2 or 3 that is within 2 ½ miles of any other stream segment.

Sec 4: Assigns a duty to the Department of Agriculture to award incentive payments to encourage farmers to plant cover crops utilizing funding obtained from federal, state or local grants or other designated funds. Applications are to be accepted for incentive payments on the following schedule: 1) beginning in calendar year 2020, applications received for land in Zone 1; 2) 2021, applications for land in zones 1 or 2, 3) 2022, application for land in zones 1, 2 or 3; 4) 2023, applications for land in zones 2, 3 or 4; 4) 2024, applications for land in zones 3 or 4; and 5) 2025, applications for land in zone 4.

Subsection (2) prescribes the amount of award payment that varies between \$20 or \$45 for every qualified acre planted to cover crops depending on whether the planting is of a single or multiple species.

Subsection (3) prescribes information to be provided on an application for incentive payments

Sec 5: Directs the Department to approve an application determined to meet the qualifications set forth in Section 4. The maximum payment per qualified claimant is capped at \$45,000 in any calendar year.

Sec 6: Authorizes the Department to adopt rules and regulations to carry out the Act.

Sec 7: Inserts an operative date of January 1, 2020

LB 732 (Vargas) Adopt the Mobile Food Unit Act and change fees for a mobile food unit

Date of Public Hearing: 3/5/19

LB 732 would establish a new registration requirement for mobile food units under wholly new provisions of law designated the Mobile Food Unit Act. The bill further assigns duties to the Department of Agriculture for inspection, and limits fees and permits, and operational restrictions that can be imposed by local governments upon mobile food unit operations as detailed in the following section-by-section summary.

Sec 1: Amends §81-2,2170 of the Nebraska Pure Food Act to lower the maximum initial permit and inspection fee for mobile food units.

Sec 2: Designates sections 2 – 10 of the bill as the Mobile Food Unit Act

Sec 3: Defines terms for purpose of the Act

Sec 4: Prohibits operation of a mobile food unit without registration with the Department, authorizes the Department to assess registration and inspection fees and prescribes maximum registration and inspection fees to accompany application for registration or renewal. Prescribes information to be provided with the application for registration. Prescribes procedure to challenge denial of registration.

Sec 5: Authorizes the Department to order persons believed to be conducting activities not in compliance with the Act to appear for a show cause hearing.

Sec 6: Limits required permits and fees that may be imposed by local governments for mobile food unit operations, sets a maximum inspection fee and excludes periods when local government inspections may occur. Expressly lists certain local regulations pertaining to the operation of mobile food units that are not preempted, but precludes local governments from regulating the duration of operation on private property, the operation on public property, or setbacks from established retail or restaurant businesses.

Sec 7: Requires mobile food unit compliance with applicable fire codes. Limits the Department to two inspections of mobile food units during a registration period unless critical violations are found. Authorizes the Department to deny, revoke or deny renewal of a registration for listed actions of the registrant.

Sec 8: For registrants that are business entities, provides that acts or omissions of any partner, trustee, member, manager or director of the business entity is grounds for denial, revocation or renewal denial of a mobile food unit registration. Provides that persons applying for registration are responsible for the acts of employees or agents of the applicant.

Sec 9: Creates the Mobile Food Unit Cash Fund, directs remission of fees collected under the Act to this fund, and authorizes uses and investment of the fund.

Sec 10: Assigns rule and reg authority to the Department to carry out the Act.

Sec 11: Repealer

BILLS WITHDRAWN BY THE INTRODUCER

LB 14 (Blood) Provide for truth in advertising and labeling in the sale of meat and provide a penalty

Date withdrawn: 1/24/19

LB 14 would have prohibited persons advertising, offering for sale or selling meat, meals or other food product having meat as an entree or ingredient from engaging in any misleading or deceptive practice including representing a product as meat that was not derived from livestock or poultry. Violation of the prohibition would have been a Class I misdemeanor.

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: May 31, 2019

The following resolutions were referred to the Committee on Agriculture. The committee has prioritized the resolutions in the following manner:

<u>Study Category</u>	<u>Resolution No.</u>	<u>Subject</u>
1	LR 221	Review livestock disease prevention and response authorities of the Department of Agriculture
2	LR 218	Interim study to examine resources and authorities of the Department of Agriculture for natural disaster response
2	LR 219	Examine opportunities for, and constraints to, future agricultural development
2	LR 220	Examine carcass disposal provisions
2	LR 222	Review status of Brand Committee implementation of electronic brand document and reporting system and opportunities to leverage the system to provide services to the livestock industry.
3	LR 251	Interim study to examine food deserts, resources to address quality food access, and impacts of food insecurity

- 1 – Committee Priority – Staff prepare research report, interim hearings, task force or combination of committee activities
- 2. – Chairman Priority – Staff to compile information and prepare memoranda
- 3. – Senator Priority – Staff to assist individual senator’s research of issue

2019 Session Interim Study Resolutions Referenced to the Agriculture Committee

LR218 (Halloran) **PURPOSE:** The purpose of this interim study is to review the resources of the Department of Agriculture and state government to respond to natural disasters and catastrophic weather events with respect to the loss of agricultural assets and infrastructure serving the agricultural sector. The study shall examine the catastrophic flooding and winter weather events occurring in March of 2019 as a case study to identify potential means of increasing preparedness and response capabilities and shall identify regulatory or statutory provisions that may impose unnecessary costs or restrictions that impede the resiliency of agriculture to recover from catastrophic events.

LR 219 (Halloran) **PURPOSE:** The purpose of this interim study is to identify constraints on agricultural processing, production, and marketing investment. The study shall examine opportunities for future growth in agricultural development, identify regulatory barriers to growth opportunities, and explore means to enable the state and local communities to be prepared to recruit and realize opportunities for agricultural development.

LR 220 (Halloran) **PURPOSE:** The purpose of this interim study is to review provisions governing carcass disposal requirements and options under Chapter 54, article 7 of the Nebraska statutes. The study shall compile a reference of duties for livestock owners, local governments, and the Department of Agriculture under state statutory provisions and federal regulations on livestock disease prevention. The study shall further examine any overlapping or contradictory jurisdiction regarding livestock mortality disposal with the Department of Environment and Energy or other agencies. Goals of the study are to identify useful or necessary updates to livestock disposal requirements to facilitate proper disposal in the aftermath of catastrophic natural disaster or disease events, to incorporate improved technologies or methodologies for animal carcass disposal and management, and to remove outdated, unnecessary, and inconsistent provisions.

LR 221 (Halloran) **PURPOSE:** The purpose of this interim study is to review the resources and authorities of the Department of Agriculture regarding livestock disease prevention and response. The study shall examine:

- (1) The status of the various livestock disease eradication programs and the need to update statutory authorities to reflect current veterinary science and practice;
- (2) The need to coordinate with federal leadership; and
- (3) Enforcement needed to prevent future outbreaks of livestock diseases in conjunction with, and under the guidance of, the United States Department of Agriculture, Animal and Plant Health Inspection Service and Veterinary Services.

LR 222 (Halloran) **PURPOSE:** The purpose of this interim study is to review the status of the implementation of the electronic brand document and reporting system by the Nebraska Brand Committee. The study shall seek to identify components of the system that are in place and the remaining system components, including acquisition and deployment of associated devices, software, training, personnel, and any other requirements to achieve a fully functioning system, and the anticipated costs and timetable for completion. It is a further goal of this study to identify opportunities such system may provide for leveraging the Nebraska Brand Committee's enhanced information management to provide additional services of value to the livestock industry..

Note: Similar topic to LR212 referred to Appropriations Committee

LR 251 (Vargas) **PURPOSE:** The purpose of this interim study is to conduct a comprehensive review of food deserts in Nebraska and make recommendations to combat the rise of food deserts and increase access to healthy, affordable food. The study shall include, but not be limited to, an examination of the following issues:

- (1) National best practices relating to state and local efforts to provide healthy, affordable food to low-income areas;

- (2) Resources the state may use to combat food deserts;
- (3) A review of the Department of Economic Development's ability to establish a financing program involving public, private, and nonprofit sectors to increase access to healthy food;
- (4) The ways in which food insecurity affects thousands of Nebraska families; and
- (5) The benefits of access to healthy, affordable food for rural, low income, and predominantly minority communities.

The interim study shall obtain input from interested parties including the Department of Economic Development and statewide stakeholders in providing healthy, affordable food.